

OCT 21 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOGINDER SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71133

Agency No. A75-253-599

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted on October 11, 2005^{**}

Before: HALL, T.G. NELSON and TALLMAN, Circuit Judges.

Joginder Singh, a native and citizen of India, petitions for review of a
decision of the Board of Immigration Appeals (“BIA”) denying his motion to

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-
3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

reopen his deportation proceedings. We review for abuse of discretion, *see Singh v. INS*, 213 F.3d 1050, 1052 (9th Cir. 2000), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's second motion to reopen because it was numerically barred, *see* 8 C.F.R. § 1003.2(c)(2), and filed six years after the applicable deadline, *see id.* Accordingly, the agency's refusal to reopen Singh's deportation proceedings was not "arbitrary, irrational or contrary to law." *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002).

We do not consider Singh's contention that his motion to reopen was based on lack of proper service and, therefore, not subject to the time and numerical limitations because this contention was already considered in his prior petition for review in *Singh v. Gonzales*, No. 01-71750 (9th Cir. Mar. 21, 2003).

PETITION FOR REVIEW DENIED.